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FINANCIAL SECTOR KNOWLEDGE SHARING

# FS SERIES #3: SUPPORTING THE ESTABLISHMENT OF CREDIT BUREAUS

## SAMPLE LAWS

**NOVEMBER 2009**

This document was produced for review by the United States Agency for International Development. It was prepared by Chemonics International Inc. for the Financial Sector Knowledge Sharing Project, delivery order number EEM-E-03-05-00006-00.

# FS SERIES #3: SUPPORTING THE ESTABLISHMENT OF CREDIT BUREAUS

**SAMPLE LAWS**

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## INTRODUCTION

The United States Agency for International Development (USAID) Bureau for Economic Growth, Agriculture, and Trade (EGAT) created the Financial Sector Knowledge Sharing Project (FS Share) to collaborate with USAID missions to develop effective and efficient financial sector programs that increase access to financial services and develop well-functioning markets worldwide. USAID awarded Chemonics International the FS Share delivery order under the Financial Sector Blanket Purchase Agreement. The three-year period of performance for FS Share runs from July 2008 through July 2011.

Through the FS Share task order, USAID/EGAT and Chemonics proactively collaborate with missions to identify financial sector priorities and develop strategies and programs to grow the financial sector. FS Share identifies financial sector best practices and aggregates them through technical briefs, model scopes of work, diagnostic tools, best practice case analyses, and other tools. These technical deliverables are disseminated to USAID missions to integrate into financial sector programming. On a case-by-case basis, FS Share can assist with implementation and connect mission staff to external resources on best practices. In response to mission demand, FS Share delivers presentations and other knowledge-sharing endeavors.

### Objective of this FS Series

This FS Series provides a comprehensive review of three models to support the establishment of credit bureaus: a public sector registry, a private credit bureau, and a hybrid model that supports transitioning existing public registries to potential privatization. The FS Series includes a primer and three model scopes of work and diagnostic checklists, designed to be blueprints for U.S. government program designers who are implementing financial sector development projects aimed at establishing or enhancing existing credit information bureaus. The series also provides illustrative laws used to establish private credit bureaus in India, Kazakhstan, and Ukraine, and a business plan for establishing a best practice credit bureau in Ukraine. **This includes the sample laws.**

The FS Series was prepared by Jim Aziz of Baja Group Consultants and Cassandra Cooper for Chemonics International.

### FS Share Rapid Response Hotline

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## SECTION I. SAMPLE LAWS

### A. India

Introduction: India's Credit Information Companies (CIC) Bill of 2005, establishes the ability to create private credit bureaus regulated by the Reserve Bank. CICs must be officially registered by the Reserve Bank and the bill lays out the guidelines for management of CICs and the role of the Reserve Bank in their oversight. Chapter III details the appointment of a chairperson of the board of each CIC, the make-up and appointment of the board of directors, and the ability of the Reserve Bank to supersede the board of the company to secure proper management. The bill also lays out the Reserve Bank's role in policy development such as their ability to issue directions to CICs, credit institutions, or banks, their ability to call to a meeting a CIC's board or watch the proceedings of a board meeting. The Reserve Bank also sets maximum fees for furnishing credit information.

CICs are allowed to reject applications for membership by credit institutions or other CICs but with providing recorded reasons for being rejected. Rejections may be appealed to the Reserve Bank. The bill also details specific principles in relation to privacy in all aspects of credit histories from collection, processing, collating, recording, preservation, secrecy, and sharing and usage of credit information. Fines and penalties for unauthorized access to credit information are also laid out. Credit institutions must become members of at least one CIC, if not; the Reserve Bank has the right to make it join a CIC.

#### THE CREDIT INFORMATION COMPANIES (REGULATION) BILL, 2005

[Bill No. XXXII-C of 2004]

#### Arrangement of Sections

#### PREAMBLE

#### Section

#### CHAPTER I: PRELIMINARY

1. Short title, extent and commencement
2. Definitions

#### CHAPTER II: REGISTRATION OF CREDIT INFORMATION COMPANIES

3. Prohibition to commence or carry on business of credit information

4. Application for registration
5. Grant of certificate of registration
6. Power of Reserve Bank to cancel certificate of registration
7. Appeal against order of Reserve Bank
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10. Power of Reserve Bank to determine policy
11. Power of Reserve Bank to give directions
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28. Disclosure of information before any court or tribunal or authority
29. Obligations as to fidelity and secrecy
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36. Power to make rules



37. Power of Reserve Bank to make regulations

THE SCHEDULE

(See section 34)

AMENDMENTS TO CERTAIN ENACTMENTS

PART I

THE RESERVE BANK OF INDIA ACT, 1934

(2 of 1934)

Section 45E, sub-section (2), after clause (c), insert--

“(d) the disclosures of any credit information under the Credit Information Companies (Regulation) Act, 2005.”.

PART II

THE BANKING REGULATION ACT, 1949

(10 of 1949)

1. Section 19, after sub-section (3), insert--

“(4) Save as provided in clause (c) of sub-section (1), a banking company may form a subsidiary company to carry on the business of credit information in accordance with the Credit Information Companies (Regulation) Act, 2005.”.

2. Section 28, for “publish any information obtained by them under this Act in such consolidated form as they think fit”, substitute--

“publish--

(a) any information obtained by them under this Act in such consolidated form as they think fit;

(b) in such manner as they may consider proper, any credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”.

PART III

THE STATE FINANCIAL CORPORATION ACT, 1951

(63 of 1951)

Section 40, after sub-section (3), insert--

“(4) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”

PART IV

THE STATE BANK OF INDIA ACT, 1955

(23 of 1955)

Section 44, after sub-section (2), insert--

“(3) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”

## PART V

### THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT, 1959

(38 of 1959)

Section 52, after sub-section (2), insert--

“(3) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”

## PART VI

### THE DEPOSIT INSURANCE AND CREDIT GUARANTEE CORPORATION ACT, 1961

(47 of 1961)

Section 39, after sub-section (2), insert--

“(3) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”

## PART VII

### THE STATE AGRICULTURAL CREDIT CORPORATIONS ACT, 1968

(60 of 1968)

Section 40, insert--

“Provided that nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”

## PART VIII

### THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1970

(5 of 1970)

Section 13, after sub-section (3), insert--

“(4) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”

## PART IX

### THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1980

(40 of 1980)

Section 13, after sub-section (3), insert--

“(4) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”

## PART X

### THE EXPORT-IMPORT BANK OF INDIA ACT, 1981

(28 of 1981)

Section 30, after sub-section (3), insert--

“(4) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”

## PART XI

THE NATIONAL BANK FOR AGRICULTURE AND RURAL DEVELOPMENT ACT, 1981  
(61 of 1981)

Section 51, after sub-section (2), insert--

“(3) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”

## PART XII

THE PUBLIC FINANCIAL INSTITUTIONS (OBLIGATION AS TO FIDELITY AND  
SECRECY) ACT, 1983  
(48 of 1983)

Section 3, after sub-section (2), insert--

“(3) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”

## PART XIII

THE NATIONAL HOUSING BANK ACT, 1987  
(53 of 1987)

Section 44, after sub-section (2), insert--

“(3) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.”

## PART XIV

THE REGIONAL RURAL BANKS ACT, 1976  
(21 of 1976)

Section 25, after sub-section (2), insert--

“(3) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2004.”

## CHAPTER I

### PRELIMINARY

#### 1. Short title, extent and commencement.--

(1) This Act may be called the Credit Information Companies (Regulation) Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

#### 2. Definitions.--

In this Act, unless the context otherwise requires,--

(a) “board” means the Board of directors of a credit information company;

(b) “borrower” means any person who has been granted loan or any other credit facility by a credit institution and includes a client of a credit institution;

(c) “client” includes--

(i) a guarantor or a person who proposes to give guarantee or security for a borrower of a credit institution; or

(ii) a person--

(A) who has obtained or seeks to obtain financial assistance from a credit institution, by way of loans, advances, hire purchase, leasing facility, letter of credit, guarantee facility, venture capital assistance or by way of credit cards or in any other form or manner;

(B) who has raised or seeks to raise money by issue of security as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956(42 of 1956), or by issue of commercial paper, depository receipt or any other instrument;

(C) whose financial standing has been assessed or is proposed to be assessed by a credit institution or any other person or institution as may, by notification, be directed by the Reserve Bank;

(d) “credit information” means any information relating to--

(i) the amounts and the nature of loans or advances, amounts outstanding under credit cards and other credit facilities granted or to be granted, by a credit institution to any borrower;

(ii) the nature of security taken or proposed to be taken by a credit institution from any borrower for credit facilities granted or proposed to be granted to him;

(iii) the guarantee furnished or any other non-fund based facility granted or proposed to be granted by a credit institution for any of its borrowers;

(iv) the credit worthiness of any borrower of a credit institution;

(v) any other matter which the Reserve Bank may, consider necessary for inclusion in the credit information to be collected and maintained by credit information companies, and, specify, by notification, in this behalf;

(e) “credit information company” means a company formed and registered under the Companies Act, 1956(1 of 1956) and which has been granted a certificate of registration under sub-section (2) of section 5; -

(f) “credit institution” means a banking company and includes--

- (i) a corresponding new bank, the State Bank of India, a subsidiary bank, a co-operative bank, the National Bank and regional rural bank;
- (ii) a non-banking financial company as defined under clause (f) of section 45-I of the Reserve Bank of India Act, 1934(2 of 1934);
- (iii) a public financial institution referred to in section 4A of the Companies Act, 1956(1 of 1956);
- (iv) the financial corporation established by a State under section 3 of the State Financial Corporation Act, 1951(63 of 1951);
- (v) the housing finance institution referred to in clause (d) of section 2 of the National Housing Bank Act, 1987(53 of 1987);
- (vi) the companies engaged in the business of credit cards and other similar cards and companies dealing with distribution of credit in any other manner;
- (vii) any other institution which the Reserve Bank may specify, from time to time, for the purposes of this clause;
- (g) “credit scoring” means a system which enables a credit institution to assess the credit worthiness and capacity of a borrower to repay his loan and advances and discharge his other obligations in respect of credit facility availed or to be availed by him;
- (h) “notification” means a notification published in the Official Gazette of India;
- (i) “prescribed” means prescribed by rules made under this Act;
- (j) “regulations” means regulations made by the Reserve Bank under this Act;
- (k) “Reserve Bank” means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934(2 of 1934);

(l) “specified user” means any credit institution, credit information company being a member under sub-section (3) of section 15, and includes such other person or institution as may be specified by regulations made, from time to time, by the Reserve Bank for the purpose of obtaining credit information from a credit information company;

(m) words and expressions used herein and not defined in this Act but defined in the Reserve Bank of India Act, 1934(2 of 1934) or the Banking Regulation Act, 1949(10 of 1949) or the Companies Act, 1956(1 of 1956) shall have the meanings respectively assigned to them in those Acts.

## CHAPTER II

### REGISTRATION OF CREDIT INFORMATION COMPANIES

#### 3. Prohibition to commence or carry on business of credit information.--

Save as otherwise provided in this Act, no company shall commence or carry on the business of credit information without obtaining a certificate of registration from the Reserve Bank under this Act.

#### 4. Application for registration.--

(1) Every company which intends to commence the business of credit information shall make an application for registration to the Reserve Bank in such form and manner as may be specified by regulations.

(2) Every credit information company, in existence on the commencement of this Act, before the expiry of six months from such commencement, shall apply in writing to the Reserve Bank for obtaining a certificate of registration under this Act:

Provided that in the case of a credit information company in existence on the commencement of this Act, nothing in section 3 shall be deemed to prohibit such credit information company from carrying on the business of a credit information company, until it is granted a certificate of registration or is by notice in writing informed by the Reserve Bank that a certificate of registration cannot be granted to it.

#### 5. Grant of certificate of registration.--

(1) The Reserve Bank may, for the purpose of considering the application of a company for grant of a certificate of registration to commence or carry on the business of credit information, require to be satisfied, by an inspection of records or books of such company or otherwise that the following conditions are fulfilled, namely:--

(a) that the applicant company has minimum capital structure referred to in section 8;



(b) that the general character of the management or the proposed management of the applicant company shall not be prejudicial to the interest of its specified users, clients or borrowers, or other credit information companies;

(c) that any other condition, the fulfilment of which in the opinion of the Reserve Bank, shall be necessary to ensure that the commencement or carrying on of the business of credit information by the applicant company shall not be detrimental or prejudicial to the public interest or banking policy or credit system or its specified users or clients or borrowers or other credit information companies or others who would provide credit information to the credit information companies.

(2) The Reserve Bank may, after being satisfied that the conditions as referred to in sub-section (1) are fulfilled, grant a certificate of registration to the applicant company to commence or carry on the business of credit information, subject to such conditions which it may consider fit to impose and if the company fails to fulfil any of such conditions or any of the provisions of this Act, the application of the company shall be rejected:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

(3) The Reserve Bank may, having regard to the available business of credit information, the potential and scope for expansion of existing credit information companies and other relevant factors, determine the total number of the credit information companies which may be granted the certificates of registration for carrying on the business of credit information:

Provided that the total number of such credit information companies so determined may, on being satisfied by the Reserve Bank, that there is change in available business of credit information, potential and scope for expansion of existing credit information companies and other relevant factors relating thereto, be reviewed by the Reserve Bank.

#### 6. Power of Reserve Bank to cancel certificate of registration.--

(1) The Reserve Bank may cancel a certificate of registration granted to a credit information company under sub-section (2) of section 5 if such company,--

- (i) ceases to carry on the business of credit information; or
  - (ii) has failed to comply with any of the conditions subject to which the certificate of registration has been granted to it; or
  - (iii) at any time fails to fulfil any of the conditions referred to in sub-clauses (a) to (c) of sub-section (1) or sub-section (2) of section 5; or
  - (iv) fails--
    - (a) to comply with the provisions of any law for the time being in force or any direction issued by the Reserve Bank under the provisions of this Act; or
    - (b) to submit or offer for inspection its books of account and other relevant documents when so demanded by the officers, persons or agency referred to in sub-section (1) of section 12.
- (2) Before cancelling the certificate of registration granted to a credit information company under this section on the ground that the company has failed to comply with the conditions specified in clauses (a) to (c) of sub-section (1) or sub-section (2) of section 5 or the provisions of any other law for the time being in force or directions issued under this Act, the Reserve Bank, shall grant time to such company on such terms as the Reserve Bank may deem appropriate for taking necessary steps to comply with such directions or provisions or fulfilment of such conditions, within such time:
- Provided that if the Reserve Bank is of the opinion that the delay in cancelling the certificate of registration of such company shall be prejudicial or detrimental to the public interest or banking policy or credit system or borrowers or other credit information companies, the Reserve Bank may cancel the certificate of registration without granting time as provided in sub-section (2).
- (3) No order of cancellation of certificate of registration granted to a credit information company shall be made by the Reserve Bank unless such company has been given a reasonable opportunity of being heard.

## 7. Appeal against order of Reserve Bank.--

(1) A credit information company aggrieved by the order of rejection of an application for grant of certificate of registration under section 5 or cancellation of certificate of registration under section 6, may prefer an appeal to the Central Government or any other authority or tribunal which may be designated by rules made by the Central Government, within a period of thirty days from the date on which such order of rejection or cancellation, as the case may be, is communicated to the credit information company.

(2) The decision of the Central Government or the authority or tribunal referred to in sub-section (1) where an appeal has been preferred to it under sub-section (1), or of the Reserve Bank where no such appeal has been preferred, shall be final:

Provided that before making any order of rejection of an appeal, the applicant company or the credit information company, as the case may be, shall be given a reasonable opportunity of being heard.

#### 8. Requirement as to minimum capital.--

(1) The authorised capital of every credit information company shall be a minimum of thirty crores:

Provided that the Reserve Bank may, by notification, increase the minimum amount of authorized capital to any amount not exceeding fifty crores.

(2) The issued capital of every credit information company shall not be less than twenty crores:

Provided that the Reserve Bank may, by notification, increase the issued capital to any amount not exceeding the minimum amount of authorized capital as referred to in sub-section (1).

(3) The minimum paid up capital of every credit information company at any time shall not be less than seventy five per cent. of the issued capital.

## CHAPTER III

### MANAGEMENT OF CREDIT INFORMATION COMPANIES

#### 9. Management of credit information company.--

(1) Notwithstanding anything contained in any law for the time being in force, or in any contract to the contrary, every credit information company in existence on the commencement of this Act, or which comes into existence thereafter, shall have one of its directors, who may be appointed on whole-time or on a part-time basis as chairperson of its board, and where he is appointed on whole-time basis as chairperson of its board, he shall be entrusted with the management of the whole of the affairs of the credit information company:

Provided that the chairperson of the board of the credit information company shall exercise his powers subject to the superintendence, control and directions of the board.

(2) Where a chairperson is appointed on a part-time basis, the management of whole of the affairs of the credit information company shall be entrusted to a managing director or, a whole-time director by whatever name called, who shall exercise his powers subject to the superintendence, control and directions of the board.

(3) In addition to the chairperson or managing director or whole-time director, by whatever name called, the board of directors shall consist of not less than fifty per cent. directors who shall be persons having special knowledge in, or practical experience of, the matters relating to public administration, law, banking, finance, accountancy, management and information technology.

(4) In discharging its functions, the board shall act on business principles and shall have due regard to the interest of its specified users, credit institutions or the clients or borrowers of credit institutions.

(5) Where the Reserve Bank is satisfied that it is in the public interest or in the interest of banking policy or credit system of the country, or for preventing the affairs of any credit information company being managed in a manner detrimental to the interest of banking policy or credit institutions or borrowers or clients or for securing the proper management of any credit

information company, it is necessary so to do, the Reserve Bank may, for reasons to be recorded in writing, by order published in the Official Gazette, supersede the board of such company, for such period not exceeding six months, as may be specified in the order and which may be extended from time to time, so, however, that the total period shall not exceed twelve months:

Provided that before making any such order, the Reserve Bank shall give a reasonable opportunity to the board of such credit information company to make representation against the proposed super session and shall consider the representation, if any, of the board.

(6) The Reserve Bank may, on super session of the board of a credit information company under sub-section (5), appoint an Administrator for such period and on such salary and other terms and conditions as it may determine.

(7) The Reserve Bank may issue such directions to the Administrator as it may deem appropriate and the Administrator shall be bound to follow such directions.

(8) Upon making of the order under sub-section (5), superseding the board of a credit information company--

(a) the chairperson, managing director and other directors of such credit information company shall, as from the date of super session, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of the Companies Act, 1956(1 of 1956) or this Act or any other law for the time being in force, be exercised or discharged, by or on behalf of the board of such credit information company, or by a resolution passed in general meeting of that company, shall, until the reconstitution of its board under sub-section (10), be exercised and discharged by the Administrator appointed by the Reserve Bank under sub-section (6):

Provided that the power exercised by the Administrator shall be valid notwithstanding that such powers are exercisable by a resolution passed in the general meeting of such credit information company.

(9) The salary and allowances payable to the Administrator and staff assisting the Administrator shall be borne by the credit information company.

(10) On and before the expiration of two months before expiry of the period of super session mentioned in the order of the Reserve Bank issued under sub-section (5), the Administrator of the credit information company, shall call a general meeting of the credit information company to elect new directors and reconstitute its board and any person who had vacated his office under clause (a) of sub-section (8), shall not be deemed to be disqualified for re-appointment.

(11) Notwithstanding anything contained in any law for the time being in force or in any contract or the memorandum or articles of association, of the credit information company, on the removal of a person from office under this section, that person shall not be entitled to claim any compensation for the loss or termination of office.

#### 10. Power of Reserve Bank to determine policy.--

Where the Reserve Bank is satisfied that it is necessary or expedient in the public interest or in the interest of specified users or in the interest of credit information companies or credit institutions or clients or borrowers so to do, it may determine the policy in relation to functioning of credit information companies or credit institutions or specified users generally or in particular and when the policy has been so determined all credit information companies, credit institutions and specified users, as the case may be, shall be bound to follow the policy as so determined.

#### 11. Power of Reserve Bank to give directions.--

(1) Where the Reserve Bank is satisfied that,--

(a) in the public interest; or

(b) in the interest of credit institutions; or

(c) in the interest of specified users; or

(d) in the interest of banking policy; or

(e) to prevent the affairs of any credit information company being conducted in a manner detrimental to the interests of its specified users or in a manner prejudicial to the interests of credit institutions or borrowers or clients; or

(f) to secure the proper management of credit information companies generally,

it is necessary to issue directions to credit information companies or credit institutions or specified users generally or to any credit information company or credit institution or specified user in particular, it may, from time to time, issue such directions as it deems fit, and such credit information companies, credit institutions and specified users or credit information company, credit institution, and specified user, as the case may be, shall be bound to comply with such directions.

(2) The Reserve Bank may, on representation made to it or on its own motion, modify or cancel any direction issued under sub-section (1), and the Reserve Bank, in so modifying or cancelling any direction, may impose such conditions as it thinks fit, subject to which the modification or cancellation shall have effect.

(3) The Reserve Bank may, at any time, if it is satisfied that in the public interest or in the interest of a credit information company or its members, it is necessary so to do, by order in writing and on such terms and conditions as may be specified therein,--

(a) require such credit information company to call a meeting of its directors for the purpose of considering any matter relating to or arising out of the affairs of the credit information company;

(b) depute one or more of its officers to watch the proceedings at any meeting of the board of the credit information company or of any committee or of any other body constituted by it and require the credit information company to give an opportunity to the officers so deputed to be heard at such meetings and also require such officers to send a report of such proceedings to the Reserve Bank;

(c) require the board of the credit information company or of any committee or any other body constituted by it to give in writing to any officer deputed by the Reserve Bank in this behalf at

his usual address all notices of, and other communications relating to, any meeting of the board, committee or other body constituted by it;

(d) appoint one or more of its officers to observe the manner in which the affairs of the credit information company or of its offices or branches are being conducted and make a report thereon;

(e) require the credit information company to make, within such time as may be specified in the order, such changes in the management as the Reserve Bank may consider necessary.

(4) The Reserve Bank may, at any time, direct any credit information company to furnish it within such time as may be specified by the Reserve Bank, such statements and information relating to the business or affairs of the credit information company as the Reserve Bank may consider necessary or expedient to obtain for the purpose of this Act.

## 12. Inspection of credit information company, credit institution and specified user.--

(1) Notwithstanding anything to the contrary contained in section 235 of the Companies Act, 1956(1 of 1956), the Reserve Bank, at any time, may and on being directed so to do by the Central Government shall, cause an inspection to be made by one or more of its officers or through such other persons or agency as the Reserve Bank may determine, of any credit information company or credit institution or specified user and their books and accounts; and the Reserve Bank shall supply to the credit information company or credit institution or specified user, as the case may be, a copy of its report on such inspection.

(2) It shall be the duty of every director or other officer or employee of the credit information company, credit institution and specified user to produce to any officer or person or agency, as the case may be, making an inspection under sub-section (1) all such books, accounts and other documents in his custody or power and to furnish him with any statement and information relating to the affairs of such credit information company, credit institution and specified user, as the said officer or person or agency may require of him within such time as the said officer or person or agency may specify.



(3) Any officer of the Reserve Bank or person or an agency making an inspection under sub-section (1) may examine on oath any director or other officer or employee of the credit information company, credit institution and specified user, in relation to their business, and may administer an oath accordingly.

(4) The expenses of, or incidental to, the inspection under sub-section (1) by any person or an agency referred to in sub-section (1) shall be borne by the concerned credit information company or credit institution or specified user, as the case may be.

## CHAPTER IV

### AUDITORS

#### 13. Powers and duties of auditors.--

(1) It shall be the duty of an auditor of a credit information company to inquire whether or not the credit information company has furnished to the Reserve Bank such statements, information or particulars relating to its business as are required to be furnished under this Act and the auditor shall, except where he is satisfied on such inquiry that the credit information company has furnished such a statement, information or particulars, make a report to the Reserve Bank in this regard.

(2) The Reserve Bank may, on being satisfied that it is necessary so to do, in the public interest or in the interest of credit system, issue directions in particular or in general with respect to audit of the credit information company and submission of the report to the Reserve Bank.

(3) Where the Reserve Bank is of the opinion that it is necessary so to do in the public interest or in the interest of the credit information company or its members, or in the interest of credit system or credit institution or its borrower or client so to do, it may, at any time, by an order, direct that a special audit of the accounts of the credit information company in relation to any such transaction or class of transactions or for such period or periods, as may be mentioned in the order, shall be conducted and the Reserve Bank may by such order or by a separate order either appoint an auditor or auditors or direct the auditor of the credit information company himself to conduct such special audit and the auditor shall comply with such directions and make a report of such audit to the Reserve Bank and forward a copy thereof to the credit information company.

(4) The remuneration of the auditors as may be fixed by the Reserve Bank, having regard to the nature and volume of work involved in the audit and the expenses of, or incidental to, the audit, shall be borne by the credit information company so audited.

## CHAPTER V

### FUNCTIONS OF CREDIT INFORMATION COMPANIES

#### 14. Functions of a credit information company.--

(1) A credit information company may engage in any one or more of the following forms of business, namely:--

(a) to collect, process and collate information on trade, credit and financial standing of the borrowers of the credit institution which is a member of the credit information company;

(b) to provide credit information to its specified users or to the specified users of any other credit information company or to any other credit information company being its member;

(c) to provide credit scoring to its specified users or specified users of any other credit information company or to other credit information companies being its members;

(d) to undertake research project;

(e) to undertake any other form of business which the Reserve Bank may, specify by regulations as a form of business in which it is lawful for a credit information company to engage.

(2) No credit information company shall engage in any form of business other than those referred to in sub-section (1).

(3) Any credit information company for the purposes of carrying on the business of credit information may--

(a) register credit institutions and other credit information companies, at their option as its member, subject to such terms and conditions as may be pre-determined and disclosed by such credit information company;

(b) charge such reasonable amount of fees, as it may deem appropriate not exceeding the maximum fee, as may be specified under section 27, for furnishing credit information to a specified user;

(c) generally to do all such other acts and perform such other functions as are necessary to facilitate proper conduct of its affairs, business and functions in accordance with the provisions of this Act.

15. Credit Institution to be member of a credit information company.--

(1) Every credit institution in existence on the commencement of this Act, before the expiry of three months from such commencement or within such extended period, as the Reserve Bank may allow on its application and subject to being satisfied about the reason for extension, shall become member of at least one credit information company.

(2) Every credit institution which comes into existence after the commencement of this Act, before the expiry of three months from its coming into existence, or within such extended period, as the Reserve Bank may allow on its application and subject to being satisfied about the reason for extension, shall become member of at least one credit information company.

(3) A credit information company may, at its option, become member of another credit information company.

(4) No credit information company shall refuse to register a credit institution or another credit information company as its member without providing reasonable opportunity of being heard to such credit institution or credit information company, whose application it proposes to reject and recording reasons for such rejection and a copy of such order of rejection shall be forwarded to the Reserve Bank.

(5) A credit institution or credit information company aggrieved by the order of rejection of its application for its registration as a member of a credit information company under sub-section (4) may prefer an appeal to the Reserve Bank, within a period of thirty days from the date on which such order of rejection was communicated to it:

Provided that the Reserve Bank may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding thirty days.

(6) On receipt of an appeal under sub-section (5), the Reserve Bank, after giving the appellant and other concerned parties, an opportunity of being heard, pass such order as it deems fit.

(7) The decision of the Reserve Bank where an appeal has been preferred to it under sub-section (5) shall be final and the order of the credit information company under sub-section (4) shall be final after the expiry of the said period of thirty days where no appeal has been preferred under that sub-section to the Reserve Bank.

(8) Every specified user shall be entitled to obtain credit information for its use from the credit information company of which such specified user is a member.

16. Failure to become a member of a credit information company.--

(1) Where a credit institution--

(a) abstains from becoming a member of at least one credit information company; or

(b) at any time is not a member of any credit information company,

the Reserve Bank suo moto or on a complaint from a credit information company may, direct such credit institution to take necessary steps within such time, as it may specify to become a member of a credit information company.

(2) In case a credit institution fails to comply with the directions of the Reserve Bank under sub-section (1), to become member of at least one credit information company, the Reserve Bank may, without prejudice to the provisions of this Act, intimate such failure to any other authority for taking such action as it may deem fit.

17. Collection and furnishing of credit information.--

(1) A credit information company or any person authorised in that behalf by the company may, by notice in writing, in such form, as may be specified by regulations made by the Reserve Bank or as near thereto, require its members being credit institution or credit information company, to furnish such credit information as it may deem necessary in accordance with the provisions of this Act.

(2) Every credit institution which is member of the credit information company and every credit information company which is a member of other credit information company shall, on receipt of notice under sub-section (1), provide credit information to the credit information company of which it is a member, within such period as may be specified in the notice.

(3) Every credit information company shall provide for such purpose, as may be specified by regulations, the credit information received under sub-section (2), to its specified user on receipt of request from him in accordance with the provisions of this Act and directions issued there under by the Reserve Bank from time to time in this behalf.

(4) No credit information received under this Act,--

(a) by the credit information company, shall be disclosed to any person other than its specified user; or

(b) by the specified user, shall be disclosed to any other person;

(c) by the credit information company or specified user, shall be disclosed for any other purpose than as permitted or required by any other law for the time being in force.

#### 18. Settlement of dispute.--

(1) Notwithstanding anything contained in any law for the time being in force, if any dispute arises amongst, credit information companies, credit institutions, borrowers and clients on matters relating to business of credit information and for which no remedy has been provided under this Act, such disputes shall be settled by conciliation or arbitration as provided in the Arbitration and Conciliation Act, 1996(26 of 1996), as if the parties to the dispute have

consented in writing for determination of such dispute by conciliation or arbitration and provisions of that Act shall apply accordingly.

(2) Where a dispute has been referred to arbitration under sub-section (1), the same shall be settled or decided,--

(a) by the arbitrator to be appointed by the Reserve Bank.

(b) within three months of making a reference by the parties to the dispute:

Provided that the arbitrator may, after recording the reasons therefore, extend the said period up to a maximum period of six months:

Provided further that, in an appropriate case of cases, the Reserve Bank may, if it considers necessary to do so (reasons to be recorded in writing), direct the parties to the dispute to appoint an arbitrator in accordance with the provisions of the Arbitration and Conciliation Act, 1996(26 of 1996), for settlement of their dispute in accordance with the provisions of that Act.

(3) Save as otherwise provided under this Act, the provisions of the Arbitration and Conciliation Act, 1996(26 of 1996) shall apply to all arbitration under this Act as if the proceedings for arbitration were referred for settlement or decision under the provisions of the Arbitration and Conciliation Act, 1996.

## CHAPTER VI

### INFORMATION PRIVACY PRINCIPLES AND FURNISHING OF CREDIT INFORMATION

#### 19. Accuracy and security of credit information.--

A credit information company or credit institution or specified user, as the case may be, in possession or control of credit information, shall take such steps (including security safeguards) as may be prescribed, to ensure that the data relating to the credit information maintained by them is accurate, complete, duly protected against any loss or unauthorized access or use or unauthorized disclosure thereof.

#### 20. Privacy principles.--

Every credit information company, credit institution and specified user, shall adopt the following privacy principles in relation to collection, processing, collating, recording, preservation, secrecy, sharing and usage of credit information, namely:--

##### (a) the principles--

(i) which may be followed by every credit institution for collection of information from its borrowers and clients and by every credit information company, for collection of information from its member credit institutions or credit information companies, for processing, recording, protecting the data relating to credit information furnished by, or obtained from, their member credit institutions or credit information companies, as the case may be, and sharing of such data with specified users;

(ii) which may be adopted by every specified user for processing, recording, preserving and protecting the data relating to credit information furnished, or received, as the case may be, by it;

(iii) which may be adopted by every credit information company for allowing access to records containing credit information of borrowers and clients and alteration of such records in case of need to do so;



(b) the purpose for which the credit information may be used, restriction on such use and disclosure thereof;

(c) the extent of obligation to check accuracy of credit information before furnishing of such information to credit information companies or credit institutions or specified users, as the case may be;

(d) preservation of credit information maintained by every credit information company, credit institution, and specified user as the case may be (including the period for which such information may be maintained, manner of deletion of such information and maintenance of records of credit information);

(e) networking of credit information companies, credit institutions and specified users through electronic mode;

(f) any other principles and procedures relating to credit information which the Reserve Bank may consider necessary and appropriate and may be specified by regulations.

## 21. Alteration of credit information files and credit reports.--

(1) Any person, who applies for grant or sanction of credit facility, from any credit institution, may request to such institution to furnish him a copy of the credit information obtained by such institution from the credit information company.

(2) Every credit institution shall, on receipt of request under sub-section (1), furnish to the person referred to in that sub-section a copy of the credit information subject to payment of such charges, as may be specified by regulations, by the Reserve Bank in this regard.

(3) If a credit information company or specified user or credit institution in possession or control of the credit information, has not updated the information maintained by it, a borrower or client may request all or any of them to update the information; whether by making an appropriate correction, or addition or otherwise, and on such request the credit information company or the specified user or the credit institution, as the case may be, shall take appropriate steps to update the credit information within thirty days after being requested to do so:

Provided that the credit information company and the specified user shall make the correction, deletion or addition in the credit information only after such correction, deletion or addition has been certified as correct by the concerned credit institution:

Provided further that no such correction, deletion or addition shall be made in the credit information if any dispute relating to such correction, deletion or addition is pending before any arbitrator or tribunal or court and in cases where such dispute is pending, the entries in the books of the concerned credit institution shall be taken into account for the purpose of credit information.

## 22. Unauthorized access to credit information.--

(1) No person shall have access to credit information in the possession or control of a credit information company or a credit institution or a specified user unless the access is authorized by this Act or any other law for the time being in force or directed to do so by any court or tribunal and any such access to credit information without such authorization or direction shall be considered as an unauthorized access to credit information.

(2) Any person who obtains unauthorized access to credit information as referred to in subsection (1) shall be punishable with fine which may extend to one lakh rupees in respect of each offence and if he continues to have such unauthorized access, with further fine which may extend to ten thousand rupees for every day on which the default continues and such unauthorized credit information shall not be taken into account for any purpose.

## CHAPTER VII

### OFFENCES AND PENALTIES

#### 23. Offences and penalties.--

(1) Whoever, in any return or other document or in any information required or furnished by, or under, or for the purposes of, any provision of this Act, willfully makes a statement which is false in any material particular, knowing it to be false, or willfully omits to make a material statement, shall be punishable with imprisonment for a term which may extend to one year and shall also be liable to fine.

(2) Every credit information company or a credit institution or any specified user, willfully, performing any act or engaging in any practice, in breach of any of the principles referred to in section 20, shall be punishable with fine not exceeding one crore.

(3) Any credit information company or credit institution or specified user willfully providing to any other credit information company or credit institution or specified user or borrower or client, as the case may be, credit information which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement, shall be punishable, with fine which may extend to one crore.

(4) Any person who contravenes any provision of this Act or of any rule or order made there under, or obstructs the lawful exercise of any power conferred by or under this Act, or makes default in complying with any requirement of this Act or of any rule or order made or direction issued there under, shall, if no specific provision is made under this Act for punishment of such contravention, obstruction or default, be punishable with fine which may extend to one lakh rupees and where a contravention or default is a continuing one, with a further fine which may extend to five thousand rupees for every day during which the contravention or default continues.

(5) Where a contravention or default has been committed by a credit information company or credit institution or specified user, as the case may be, every person who, at the time the

contravention or default was committed, was in charge of, and was responsible to the credit information company or credit institution or specified user for the conduct of its business, shall be deemed to be guilty of the contravention or default and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the contravention or default was committed without his knowledge or that he exercised all due diligence to prevent the contravention or default.

(6) Notwithstanding anything contained in sub-section (5), where a contravention or default has been committed by a credit information company or credit institution or specified user, as the case may be, and it is proved that the same was committed with the consent or connivance of, or is attributable to any gross negligence on the part of its chairperson, managing director, any other director, manager, secretary or other officer of the credit information company or the credit institution, such chairperson, managing director, any other director, manager, secretary or other officer shall also be deemed to be guilty of that contravention or default and shall be liable to be proceeded against and punished accordingly.

Explanation.-- For the purposes of this section,--

(a) “company” means anybody corporate and includes a firm or other association of individuals, and

(b) “director”, in relation to a firm, means a partner in the firm.

24. Cognizance of offences.--

(1) No court shall take cognizance of any offence committed by a member of a credit information company and punishable under section 23 except upon a complaint in writing made by an officer of the credit information company generally or specially authorized in writing in this behalf by the credit information company or if so directed by the Reserve Bank so to do and

no court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class or any court superior thereto shall try any such offence.

Explanation.--For the purposes of this sub-section, “member of a credit information company” shall mean a member referred to in section 15.

(2) No court shall take cognizance of any offence committed by a credit information company punishable under section 23 except upon a complaint in writing made by an officer of the Reserve Bank generally or specially authorized in writing in this behalf by the Reserve Bank and no court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class or any court superior thereto shall try any such offence.

#### 25. Power of Reserve Bank to impose penalty.--

(1) Notwithstanding anything contained in section 23, if a contravention or default of the nature referred to in sub-section (2) of section 22 or sub-section (2) or sub-section (3) or sub-section (4) of section 23, as the case may be, is made by a credit information company or a credit institution then, the Reserve Bank may impose on such credit information company or credit institution--

(i) where the contravention is of the nature referred to in sub-section (2) of section 22, a penalty not exceeding one lakh rupees;

(ii) where the contravention is of the nature referred to in sub-section (2) or sub-section (3) of section 23, a penalty not exceeding one crore;

(iii) where the contravention is of the nature referred to in sub-section (4) of section 23, a penalty not exceeding one lakh rupees and where such contravention or default is continuing one, a further penalty which may extend to five thousand rupees for every day, after the first, during which the contravention or default continues.

(2) For the purpose of adjudging the penalty under sub-section (1), the Reserve Bank shall serve notice on credit information company or credit institution or specified user, as the case may be, requiring it to show cause as to why the amount mentioned in the notice should not be imposed

as penalty and a reasonable opportunity of being heard shall also be given to such credit information company or credit institution or specified user as the case may be.

(3) No complaint shall be filed against credit information company or credit institution or specified user, as the case may be, in any court of law in respect of any contravention or default in respect of which any penalty has been imposed by the Reserve Bank under this section.

(4) Any penalty imposed by the Reserve Bank under this Act shall be payable within a period of fourteen days from the date on which notice issued by the Reserve Bank demanding payment of the sum is served on the credit information company or credit institution or specified user, as the case may be, and in the event of failure of such credit information company or credit institution or specified user to pay the sum within such period, may be levied on a direction made by the principal civil court having jurisdiction in the area where the registered office of the credit information company or credit institution or specified user, being a company, is situated and in case of credit institution incorporated outside India, where its principal place of business in India is situated:

Provided that such direction under this sub-section shall be made only upon an application made in this behalf to the court by the Reserve Bank.

(5) The court which makes a direction under sub-section (4) shall issue a certificate mentioning therein the sum payable by a credit information company or credit institution or specified user as the case may be, and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a civil suit.

(6) Where any complaint has been filed against credit information company or credit institution or specified user as the case may be, in any court in respect of the contravention or default of the nature referred to in sub-section (2) of section 22 and sub-section (2) or sub-section (3) or sub-section (4) of section 23, then, no proceedings for the imposition of any penalty on the credit information company or credit institution or specified user shall be taken under this section.

26. Application of fines.--

A court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in or towards payment of the costs of the proceedings, or for such purposes as may be directed by the court.

## CHAPTER VIII

### MISCELLANEOUS

#### 27. Power of Reserve Bank to specify maximum amount of fees.--

The Reserve Bank may, specify, by regulations the maximum amount of fees leviable under sub-section (3) of section 14 for providing information to the specified users and for admissions of credit institutions or credit information companies as a member of a credit information company.

#### 28. Disclosure of information before any court or tribunal or authority.--

No chairperson, director, member, auditor, adviser, officer or other employee or agent employed in the business of a credit information company or in the business of a specified user shall, except for the purposes of this Act or when required to do so by any other law in force or court or tribunal or authority, disclose any information to any person.

#### 29. Obligations as to fidelity and secrecy.--

(1) Every credit information company shall observe, except as otherwise required by law, the practices and usages customary among credit information companies and it shall not divulge any information relating to, or to the affairs of its, members or specified users.

(2) Every chairperson, director, member, auditor, adviser, officer or other employee of a credit information company shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form, as may be prescribed in this regard.

Explanation.--For the purposes of this section and section 30, the terms “practices and usages customary” means such practices and usages which, are generally followed by credit information companies or may develop in due course in relation to their functions, in pursuance of the provisions of this Act, rules and regulations made and directions issued there under from time to time in pursuance thereof.

#### 30. Protection of action taken in good faith.--



(1) No suit or other legal proceedings or prosecution shall lie against the Reserve Bank or the Central Government or credit information company or credit institution, or their chairperson, director, member, auditor, adviser, officer or other employee, or agent or any person authorized by the Reserve Bank or the Central Government or credit information company or credit institution to discharge any function under this Act, for any loss or damage caused or as is likely to be caused by anything which is in good faith done or intended to be done, in pursuance of this Act or any other law for the time being in force.

(2) Nothing contained in sub-section (1) shall affect the right of any person to claim damages against a credit information company, a credit institution or their chairperson, director, member, auditor, adviser, officer or other employee or agents, as the case may be, in respect of loss caused to him on account of any such disclosure made by anyone of them and which is unauthorized or fraudulent or contrary to provisions of this Act, or practices or usages customary among them.

### 31. Bar of jurisdiction.--

No court or authority shall have, or be entitled to exercise, any jurisdiction, powers or authority, except the Supreme Court and a High Court exercising jurisdiction under articles 32, 226 and 227 of the Constitution, in relation to the matters referred to in sections 4, 5, 6, 7 and 18.

### 32. Power of Reserve Bank to exempt in certain cases.--

(1) The Central Government may, on the recommendation of the Reserve Bank, by notification in the Official Gazette, direct that any or all of the provisions of this Act shall not apply to any credit information company or a credit institution, as the case may be, either generally or for such period and subject to such exceptions or modifications, as may be mentioned in that notification.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any

modification in the notification, the notification shall not be issued or as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

### 33. Application of other laws not barred.--

The provisions of this Act shall be in addition to, and not, save as provided under this Act, in derogation of, the provisions of the Companies Act, 1956(1 of 1956) of any other law for the time being in force.

### 34. Amendment of certain enactments.--

The enactments mentioned in the Schedule to this Act shall be amended in the manner specified therein.

### 35. Removal of difficulties.--

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

### 36. Power to make rules.--

(1) The Central Government may, after consultation with the Reserve Bank, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:--

(a) the authority or tribunal which may be designated under sub-section (1) of section 7;

(b) the steps to be taken by every credit information company or credit institution and specified user for ensuring accuracy, completeness of data and protection of data from any loss or unauthorized access or use or disclosure under section 19;

(c) the form in which a declaration of fidelity and secrecy shall be made under sub-section (2) of section 29;

(d) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

### 37. Power of Reserve Bank to make regulations.--

(1) The Reserve Bank may make regulations consistent with the provisions of this Act and the rules made there under to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely:--

(a) the persons or institutions which may be specified as specified users under clause (l) of section 2;

(b) the form in which application may be made under sub-section (1) of section 4 and the manner of filing such application under that sub-section;

(c) any other form of business in which a credit information company may engage under clause (e) of sub-section (1) of section 14;

(d) the form of notice for collection and furnishing of information procedure relating thereto and purposes for which credit information may be provided under sub-sections (1) and (2) of section 17;

(e) the principles and procedures relating to credit information which may be specified under clause (f) of section 20;

(f) the amount which may be required to be paid for obtaining copy of credit information under sub-section (2) of section 21;

(g) the maximum amount of charges payable under section 27.

(3) Every regulation, as soon as may be after it is made by the Reserve Bank, shall be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation, or both Houses agree that the regulation should not be made, the regulation shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

## **B. Kazakhstan**

Introduction: Signed into law on July 6<sup>th</sup>, 2004, Kazakhstan's Law #573-II "On Credit Bureaus and the Formation of Credit Histories in the Republic of Kazakhstan" led to the formal establishment of private credit bureaus in the country, where previously a central registry existed. The law articulates the principles of formation of credit histories and outlines the use of credit information in addition to regulation and supervision of credit bureaus. An authorized body grants licenses to commercial credit bureaus and is responsible for passing regulatory acts for credit bureaus' activities, and inspects, imposes sanctions and follows up on appeals related to credit bureau activity. The law also dictates that a separate state body is responsible for informatization and the required implementation of state policy and regulation related to those elements of organization of data providers, credit bureaus, and credit report recipients in the information services market.

The authorized body can not only refuse to issue a license to a credit bureau but can also invoke sanctions, suspend and revoke licenses. The law details specific activities credit bureaus are permitted to undertake and outlines security and privacy measures required to operate a credit bureau as well as the storage of information and what to do with information should the credit bureau be re-organized or dissolved.

The law details which entities can provide data to credit bureaus, who can be a credit report recipient and the rights and obligations of both of these groups as well as the rights of the subject of credit histories. All banks must provide information to private credit bureaus and credit histories can contain positive and negative information.

**Law # 573-II, dated July 6, 2004,  
Of the Republic of Kazakhstan  
"On Credit Bureaus and the Formation of Credit Histories  
in the Republic of Kazakhstan"**

This Law sets forth the legal, economic and organizational basis for the formation of credit histories in the Republic of Kazakhstan. It sets forth the legal status of the parties involved in the formation and use of the credit histories system. It regulates the public relationships resulting from the establishment, operation and dissolution of the credit bureaus, and governs the specifics of the state regulation, supervision and control in this area.

### **CHAPTER 1. GENERAL PROVISIONS**

#### **Article 1. Basic Concepts Used in the Current Law**

The following basic concepts are used in the current Law:

1. **Credit History Database** – the credit bureau's information resources based on information systems and processes consistent with the requirements of the legislation of the Republic of Kazakhstan;

2. **The data provider's activity involving participation in the design and protection of the credit history database** – the actions taken by the data provider to process, store and transfer the data received from the credit history subjects in compliance with this Law, to Credit Bureaus;
3. **The Data Submission and/or Credit Report Delivery Agreement** – the agreement made between a Credit Bureau and a Data Provider under the terms and conditions stipulated by the current Law;
4. **Credit Information** – data on credit history subjects in electronic and paper form that is provided by the parties involved in the formation and use of credit histories system and which is certified by an electronic digital signature, when appropriate;
5. **Credit History** – full information on the subject of a credit history;
6. **Credit Bureau** – a commercial organization which compiles and maintains Credit Histories, issues Credit Reports, and provides other services;
7. **Credit Report** – the full or partial disclosure of information contained in a Credit History;
8. **A Credit Report Recipient** – a person eligible to receive a Credit Report;
9. **Data Provider** – an individual entrepreneur or a legal entity that provides information to the Credit Bureau;
10. **Credit Report Delivery** – the Credit Bureau's issuing of the information contained in a Credit History;
11. **Written Directive** – an order given to the Credit Bureau to take the corrective measures necessary for the elimination of any violations that have been identified by a set deadline;
12. **Consent of a credit history subject** – a written permission of the subject of a credit history for his/her information to be submitted to the credit bureaus or for delivery of a credit report on him/her to other persons. The consent is formalized in compliance with the requirements as set forth in the provisions of the legislation of the Republic of Kazakhstan;
13. **The Subject of a Credit History** – an individual, individual entrepreneur, or a legal entity about whom a Credit History is created and maintained;
14. **Authorized Body** – the state body that regulates and supervises financial markets and financial organizations;
15. **Contingent and possible liabilities** – uncovered letters of credit, issued or confirmed guarantees, bills and sureties;

**16. The parties involved in the formation and use of the credit history system** – credit history subjects, data providers, credit bureaus, and credit report recipients;

**17. The Formation of Credit Histories** –Credit Bureau activity (or the aggregate of these activities) on the storage, monitoring and clarification of information received from Data Providers as outlined in the current law.

## **Article 2. The Republic of Kazakhstan’s Legislation on Credit Bureaus and the Formation of Credit Histories**

1. The Republic of Kazakhstan’s legislation on Credit Bureaus and the formation of Credit Histories will be based on **the Constitution** of the Republic of Kazakhstan, and will consist of **the Civil Code** of the Republic of Kazakhstan, the present Law, and other Kazakhstani regulatory acts.
2. This Law shall be applicable to any relationships that result from the formation of Credit Histories and from the provision of Credit Reports in addition to those that result from the creation of the Credit Bureaus, their operation and the termination of their activities, and those that result from the activity of the data providers, aimed at participation in the design and protection of the credit history database. The relationships that fall under jurisdiction of other legislative acts of the Republic of Kazakhstan shall be regulated by those acts, with the exception of relationships that are regulated by the current Law.
3. If an International Treaty ratified by the Republic of Kazakhstan stipulates any provisions that are different to those stipulated in the current Law, then the International Treaty provisions will be applied.

## **Article 3. Principles of the Formation of Credit Histories and Use of Credit Information**

The formation of credit histories and use of Credit Information will take the following principles into account:

- 1) the Credit History Subject’s consent;
- 2) the equality of all Credit History Subjects;
- 3) that information, the Credit History Database, and the corresponding information system are used in accordance with their intended purpose;
- 4) the confidentiality of information;
- 5) that the protection of the Credit History Database and the corresponding information system is ensured;
- 6) that there is no interference in the private life of citizens, and that the rights, liberties, and lawful interests of individuals and legal entities are observed.

## CHAPTER 2. STATE REGULATION, SUPERVISION AND CONTROL OVER CREDIT BUREAU ACTIVITIES AND THE FORMATION OF CREDIT HISTORIES

### Article 4. **State Bodies that Regulate, Supervise and Control the activities of the Credit Bureaus, and Control the activities of Data Providers and Credit Report Recipients**

1. **The Authorized Body** will exercise state regulation and supervision of activities of the Credit Bureaus and the formation of Credit Histories.

2. The Authorized Body's powers will be:

- 1) to pass legal regulatory acts applicable to Credit Bureaus' activities, in compliance with this Law;
- 2) to issue licenses for the right to engage in Credit Bureau activities;
- 3) to inspect (check) Credit Bureaus' activities regarding their compliance with the Republic of Kazakhstan's legislation on Credit Bureaus and the Formation of Credit Histories;
- 4) to send to Credit Bureaus a written instruction which orders them to correct any identified violations against the legislation of the Republic of Kazakhstan on Credit Bureaus and the Formation of Credit Histories;
- 5) to impose sanctions on the Credit Bureaus (and their executive officers);
- 6) to look into any appeals that are lodged by individuals and legal entities regarding Credit Bureau activities and the formation of Credit Histories.

3. The state body responsible for implementation of the state policy and state regulation in the sphere of informatization, will determine the specifics of organization of Data Providers, Credit Bureaus and Credit Report Recipients' activities in the information services market (except credit history subjects), and will control their activities, taking the provisions of this Law into account.



**Article 5. The powers of the state bodies in passing of legal regulatory acts applicable to the activities of the Credit Bureaus and the Data Providers, and the formation and use of credit histories.**

1. The authorized Body will pass the following legal regulatory acts on the matters pertinent to Credit Bureau activities, the formation and use of credit histories:

- 1) Concerning the conditions and minimal requirements with respect to the procedure for submission of credit information by the Data Providers to the Credit Bureaus (for Data Providers mentioned in subparagraphs 1) and 2) of Paragraph 1 **of Article 18** of this Law);
- 2) Concerning the manner in which the consent of Credit History Subjects to submission of their credit information to the Credit Bureaus and delivery of Credit Reports about them is legalized;
- 3) Concerning the conditions and the procedure for Credit Report delivery;
- 4) Concerning the conditions and the procedure for the licensing and inspection of Credit Bureau activities.

2. **The Authorized Body**, as agreed upon with the state body responsible for implementation of the state policy and state regulation in the sphere of informatization, will adopt the legal regulatory acts concerning the information processes in the activity of the Parties involved in the credit history formation system and the use of credit histories, including the minimal requirements placed on the premises, electronic and other equipment, including its certification, the requirements placed on information resources and information systems, organization of protection and integrity of the credit history database, as well as monitoring of fulfillment of the said requirements by the credit bureaus.

## CHAPTER 3. THE FORMATION, OPERATION AND TERMINATION OF THE ACTIVITIES OF THE CREDIT BUREAUS

### Article 6. Credit Bureaus and their Founders

1. Credit Bureaus will be commercial organizations that are established and operated in accordance with the law of the Republic of Kazakhstan.
2. ~~Corporate Credit Bureaus~~ and Consumer Credit Bureaus will be established and operate in the Republic of Kazakhstan.
3. License that grants the right to conduct Credit Bureau activities will be issued by **the authorized body**, in the order established by the authorized body.

### Article 7. Credit Bureau Activities

1. The main Credit Bureau activity will be the formation of Credit Histories and the delivery of Credit Reports
2. The types of credit bureau additional activities shall be:
  - 1) to sell the specialized software that is used to automate the activities of the parties involved in the system of the formation and use of credit histories;
  - 2) to sell specialized literature and other informational material related to Credit Bureau activity;
  - 3) to provide consultancy services on informational support to the parties involved in the system of the formation and use of credit histories ;
  - 4) to assess the creditworthiness of Credit History subjects using a methodology developed by the Credit Bureaus.
  - 5) to carry out market research and statistical research.
3. The Credit Bureaus will not have the right to engage in entrepreneurial activities other than those stipulated in this Article.

### Article 8. Requirements Applied to Credit Bureaus Regarding the Protection and Security of the Credit History Database and of the Informational Systems Used.

The Credit Bureaus must ensure that the following organizational and technical measures and requirements are implemented while in operation:

- 1) that they have their technical and other premises to safely house and operate their data systems, the Credit History databases, and other documents;

- 2) that certified hardware and software is used when setting up and using the information systems that house the Credit History Database and the means of protection of the mentioned information systems;
- 3) that provisions are included in all agreements between the Data Providers and Credit Report Recipients which set out the obligation to jointly implement organizational, technical and technological measures for the protection of the software applied under the formation and operation of informational systems used to design the credit history database and the means of protection of the said informational systems.

#### **Article 9. The documents to be submitted for the issuance of the License, and the terms of their consideration**

1. In order to receive a license granting the right to engage in Credit Bureau Activities, the licensee must submit the following documents to the authorized body:

- 1) A license application;
- 2) Notary certified copies of legal entity's State Registration Certificate;
- 3) Notary certified copies of its Constituent Documents that passed state registration in established order;
- 4) Documents confirming that the Licensee meets the authorized body's requirements regarding technical support for the Credit Bureau's activities;
- 5) A document confirming that the license fee has been paid as stipulated in the legislation of the Republic of Kazakhstan.

2. The Authorized Body will consider an application for the issuance of the License granting the right to engage in Credit Bureau activities within one month since submission of the last document stipulated in Paragraph 1 of this Article.

#### **Article 10. The Refusal to Issue a License for Credit Bureau Activities**

The issuance of a license granting the right to engage in Credit Bureau activities is refused in the following cases:.

- 1) engagement in a certain type of activities forbidden by the legislative acts of the Republic of Kazakhstan for this category of the subjects;
- 2) non-compliance with the requirements as stipulated in **Article 9** of this Law;
- 3) if there is a court decision prohibiting the applicant to engage in this type of activity.

#### **Article 11. Written Instructions and Sanctions**

1. In cases where Kazakhstani legislation on Credit Bureau activities and on the formation of Credit Histories has been violated, the authorized body will have the right to send the Credit Bureau a written instruction ordering them to eradicate the identified violations.
2. The authorized body will have the right to take the following measures as sanctions:

- 1) administrative fine;
- 2) suspension of a License granting the right to engage in Credit Bureau activities;
- 3) recourse to a court with a statement of claim regarding revocation of a License.

### **Article 12. The Suspension of a Credit Bureau License**

1. The validity of a Credit Bureau license may be suspended for a period of up to six months for one of the following reasons:

- 1) failure to comply with the requirements stipulated in Article 8 of the present Law;
- 2) it has been established that the documents which were submitted and used as the basis to issue the license were not consistent with the real state of the things;
- 3) the Credit Bureau has not eradicated the violations against Kazakhstani legislation on Credit Bureau activity and the formation of Credit Histories after receiving a written instruction from the authorized body telling them to do so.

2. The suspension of a Credit Bureau license will mean that they are forbidden to engage in their Credit Bureau activities, except the activities aimed at receiving the data under earlier concluded agreements.

3. The decision to suspend a license must detail the basis and period for its suspension.

The suspension of a license will be effective from the day that the Credit Bureau's executive body is informed of this decision.

### **Article 13. Revoking a Credit Bureau License**

The authorized body will have the right to apply to court with a statement of claim on revocation of the Credit Bureau's license for one of the following reasons:

- 1) failure to correct the situation that served as the cause for licensor's suspension of the license..
- 2) the repeated suspension of a license over twelve consecutive months;
- 3) a court ban on the licensee engaging in the activities for which he has received the license;
- 4) the licensee terminating his entrepreneurial activities;
- 5) the deliberate submission by the licensee of false information in order to receive a license.

### **Article 14. The Storage of the Documents and Information of the Credit Bureaus**

1. A Credit Bureau will determine the procedure for storage of the documents and information of the Credit Bureau, including credit histories incorporated in the database.

2. The Credit Bureau will provide for the storage of credit information over the term of ten years since receipt of the last piece of information.

## **Article 15. Reorganization and Dissolution of the Credit Bureaus**

The reorganization and dissolution of the Credit Bureaus will be done according to the procedure stipulated in the legislative acts of the Republic of Kazakhstan.

Upon completion of reorganization and dissolution of the Credit Bureaus, the Credit Bureau's credit histories database shall be subject to termination, unless there are lawful grounds for its transfer (alienation) to other legal entities authorized to engage in credit bureau activities.

## **Chapter 4. The Rights and Obligations of the Parties Involved in the System of Formation and Use of Credit Histories**

### **Article 16. The Credit Bureau's Rights**

1. The Credit Bureau will have the right:

- 1) to enter into contracts with data providers regarding the submission of credit information and/or the delivery of credit reports;
- 2) to demand that Data Providers provide the confirmation of availability of the Credit History Subject's consent to transferring the data on him/her to the Credit Bureaus. In addition, it will have the right to demand that the information which forms the Credit History is complete and reliable information.
- 3) to open branches and representative offices in the manner determined by the legislation of the Republic of Kazakhstan;
- 4) to have other rights that are stipulated by the legislative acts of the Republic of Kazakhstan and in contracts that have been concluded in accordance with this Law.

### **Article 17. The Credit Bureau's Obligations**

The Credit Bureau will be obliged:

- 1) to form Credit Histories;
- 2) to provide Credit Reports provided that there is confirmation that the Subject of a Credit History has given his/her consent;
- 3) to prevent the information contained in the Credit Histories from being disclosed, with the exception of those situations stipulated in the present Law;
- 4) to provide the subject of a Credit History with a corrected version of his/her credit report, subject to the procedure stipulated in the internal regulations of the credit bureau, in the event if as a result of the actions or the non-actions of employees of the credit bureau, the credit report delivered to the recipient contained information inconsistent with the data submitted to the credit bureau by data providers;
- 5) to provide the Credit History subject with information on the Data Provider that submitted information that is disputed by the subject of a credit history, upon his/her request; ;

- 6) to refuse to provide a credit report if the request for its provision violates legislative requirements of the Republic of Kazakhstan;
- 7) to keep records and submit reports of their activities in accordance with the legislation of the Republic of Kazakhstan;
- 8) to request that a Data Provider corrects and supplements the submitted information that must be reprocessed or specified if there are adequate grounds for this;;
- 9) to use information resources and systems in accordance with the legislation of the Republic of Kazakhstan;
- 10) to reimburse Data Providers for the cost of transferring information in the cases as stipulated by the contracts on data submission and/or delivery of credit reports;

## **Article 18. Data Providers**

Data Providers will be:

- 1) banks and organizations that provide certain bank services and who have a license to engage in lending transactions (with the exception of pawnshops and credit societies (hereinafter called ‘organizations that provide certain bank services’);
  - 2) an individual entrepreneur or a legal entity that sells goods and provides services on a credit basis, or who offers delayed payment, whose systematized characteristics are determined by the Government of the Republic of Kazakhstan;
  - 3) state enterprises that register real property rights and transactions;
  - 4) any other persons on the basis of the contracts for data submission and/or delivery of credit reports.
2. The data providers are obliged to comply with the legal regulatory acts of the authorized body, applicable to Credit Bureaus' activities and the formation of credit histories regarding their participation as data providers in the design and protection of the credit history database.

## **Article 19. Data Providers’ Rights and Obligations**

1. A Data Provider will have the right:

- 1) to request that Credit Bureaus use the information provided in accordance with this Law;
  - 2) to have other rights that are in accordance with the legislative acts of the Republic of Kazakhstan and/or in accordance with a contract on information submission and/or the delivery of credit reports.
2. Data Providers defined in sub-paragraphs 1), 2) and 4) of paragraph 1 of Article 18 of the present Law will be obliged:
- to receive consent from the subject of Credit History with respect to submission of credit information on him/her to the Credit Bureaus;
  - to conclude a contract for data submission and/or delivery of credit reports; ;

to submit information to the credit bureaus on the conditions, in extent and in accordance with the procedure as set forth in this Law and the contracts for data submission and/or delivery of credit reports;

4) to correct any information that has been transferred to the credit bureaus at the request of the Credit History Subject;

5) to submit information to the Credit Bureaus in strict agreement with the information that they have on the Credit History Subject;  
to use any data resources and computer systems in accordance with the legislation of the Republic of Kazakhstan;  
to provide for appropriate conditions for receiving and processing information at their own expense.

3. Data Providers defined in sub-paragraph 3 of paragraph 1 of Article 18 of the present Law shall be obliged:

- 1) to observe those provisions of the present Law that are applied to other Data Providers when entering into an agreement on the submission of Credit Information with the Credit Bureau; ;
- 2) to provide the Credit Bureaus with any information they may have on Credit History subjects on a payable basis, unless the contract provides otherwise.

## **Article 20. The Credit Report Recipient**

1. Credit Report Recipients will be:

- 1) banks and organizations that provide certain bank services;
- 2) any individual entrepreneur or legal entity that sells goods and provides services on credit, or that offers delayed payment, whose systematized features have been determined by the Government of the Republic of Kazakhstan;
- 3) the subject of a Credit History.

Providing credit information to other institutions/people will be prohibited.

2. When an agreement regarding the submission of credit information or the delivery of credit reports is made, the persons indicated in sub-paragraphs 1) and 2) of paragraph 1 of this Article will be obliged to register with the Credit Bureau as Credit Report Recipients.

## **Article 21. The Credit Report Recipient's Rights and Obligations**

1. The Credit Report Recipient will have the right:

- 1) to receive a Credit Report;
- 2) to have any other rights that are in accordance with the legislative acts of the Republic of Kazakhstan.

2. The Credit History subject will have the right to receive one copy of his Credit Report per year without charge.

3. Credit Report Recipients indicated in sub-paragraphs 1) and 2) of paragraph 1 of **Article 20** of the present Law will be obliged:

- 1) to submit to the Credit Bureau a confirmation that they received the consent of the credit history subject with respect to delivery of a credit report on him/her;
- 2) to notify the Credit Bureau of any changes to the information they provided when registering as a Credit Report Recipient;
- 3) to keep the Credit Report confidential and to not disclose the information contained therein to any third parties;
- 4) to use the information contained in the Credit Report only for the purposes stipulated in Article 26 of this Law;
- 5) to allow the Subject of a Credit History to know the contents of his/her Credit Report or to provide them with a copy of the Credit Report at their request and in accordance with the Recipient's internal regulations;
- 6) to pay the Credit Bureau upon the issuance of a Credit Report;
- 7) to incur other obligations in accordance with the legislative acts of the Republic of Kazakhstan.

## **Article 22. The Subject of a Credit History's Rights**

### **1. The Subject of the Credit History will have the right:**

- 1) to give his/her consent to a Data Provider to submitting his/her information to the Credit Bureaus so that they may compile a Credit History;
- 2) to give his/her consent to a Credit Report Recipient receiving his/her Credit Report;
- 3) to receive his/her own Credit Report from the time that the Credit Bureau receives information on him/her, in accordance with the provisions of this Law;
- 4) to demand that the Credit Report Recipient inform him/her of the contents of his/her Credit Report, or that the Recipient provide him/her with a copy of the Credit Report (in accordance with the Recipient's internal regulations) that the Recipient received from the Credit Bureau in order to consider a loan application;
- 5) to state any objection that they might have to the information contained in the Credit Report. They [A Credit History Subject] will also have the opportunity to be informed of the Data Providers' identity;
- 6) if, as a result of the actions or non-actions of Credit Bureau employees, the Credit Report Recipient receives a report containing information different to that originally submitted to the Credit Bureau by the Data Providers, the Credit History subject will have the right to ask the Credit Bureaus for a corrected version of the Credit Report;
- 7) to demand that the Data Provider corrects any inaccurate information.



## CHAPTER 5. THE SUBMISSION OF INFORMATION TO THE CREDIT BUREAUS

### Article 23. **The General Terms and Conditions for Delivering Data to the Credit Bureaus**

1. The data providers specified in subparagraphs 1) and 2) of paragraph 1 of Article 18 of this Law will provide all credit bureaus with the information stipulated in this Law.

2. The Data Providers listed in subparagraphs 1), 2) and 4) of paragraph 1 of Article 18 of this Law will be obliged to submit credit information to the Credit Bureaus upon securing a consent of the Subject of a Credit History.

The terms and conditions governing the transfer of data to the Credit Bureaus and the receipt of Credit Reports will be defined by Data Submission and/or Credit Report Delivery Agreements concluded in compliance with the legislation of the Republic of Kazakhstan.

3. State enterprises that register property rights and transactions will submit their information to the Credit Bureaus on the basis of data delivery agreements concluded with them, whose terms and conditions have been stipulated by the Ministry of Justice of the Republic of Kazakhstan and approved by **the authorized body**.

4. Information will be submitted by data providers to the Credit Bureaus in electronic format. The Credit Bureaus' internal regulations and the agreements concluded with the data providers will stipulate the cases where information may be provided in hard copy.

5. The data providers will keep records on the consents they obtained from the credit history subjects to submission of their data to the credit bureaus.

6. A data provider must retain the consent of the credit history subjects to submission of their data to the credit bureaus in hard copy for not less than ten years since the date the last piece of information on the credit history subjects was submitted to the credit bureaus.

### Article 24. **Information Provided to the Credit Bureau**

1. The information that is provided to the Credit Bureau by banks and organizations that provide certain bank services will include the following data:

- 1) the amount of the debt on a loan that the person has received from the given bank or organization that provides certain bank services, as well as the total amount of the debt on all loans that have been extended to this person, and all contingent and possible liabilities;
- 2) the date the loan was issued and the date of the loan repayments (as they are scheduled to be paid and as they occur), as well as contingent and possible liabilities;
- 3) information on the composition and the types of collateral that secured a debt obligation (with the exception of pledged assets in safety deposit boxes, cases and bank vaults);
- 4) other information subject to the agreement of the parties.

For the purposes of this paragraph, the loan will imply the borrowing, leasing, factoring and forfeiting operations, as well as bill discounting;

2. Any information that is provided to the Credit Bureaus by legal entities or individual entrepreneurs that sell goods and offer services on a credit basis or with delayed payment terms must include the following data:

- 1) the amount of the debt on a loan, as well as on all goods/services that were provided on a credit basis;
- 2) the date the loan was provided and the date of the loan repayments (as scheduled for repayment and as they occur);
- 3) the information concerning composition and the types of collateral that secured the discharge of debt obligations;
- 4) any other data subject to the agreement of the parties.

3. Any information on the subject of credit histories – individuals or individual entrepreneurs – that is provided in accordance with the provisions of **paragraphs 1 and 2** of this Article must contain the individual's full name (first name, patronymic, and surname), their date of birth, their place of residence, the information contained in the their identification documents, and their taxpayer registration number.

4. Any information on a credit history subject – a legal entity - that is provided in accordance with the provisions of paragraph 1 and 2 of this Article must include a name of the entity, its organizational and legal form, its location, the number and date of its state registration as a legal entity, their taxpayer registration number, the full names of the Chief Executive Officers and their taxpayer registration numbers.

5. Any information that is provided to the Credit Bureaus by State enterprises that register property rights and transactions must include the following information:

- 1) For individuals - their full name (first name, patronymic, and surname), their date of birth, their place of residence, the information from their identification documents, their taxpayer registration number, information regarding the registration of property and other rights, in addition to information on the real property's encumbrances.
- 2) For legal entities - their name, their organizational and legal form, their location, the number and date of their state registration as a legal entity, their taxpayer registration number, their bank account details, information regarding the registration of property and other rights, in addition to information on the real property's encumbrances (liens).

6. The list of information stipulated in this article may be supplemented upon agreement between a credit bureau and a data provider, on the basis of data submission and/or credit report delivery agreement that is concluded between them, unless this contradicts to the provisions of the legislation of the Republic of Kazakhstan.

**Article 25. The Format of the Credit History Subject's Consent to Information Being Submitted and a Credit Report Being Delivered**

1. The Credit History subject's consent to his/her information being submitted to the Credit Bureaus and/or to a Credit Report Recipient must be given in written form
2. Consent from an individual Credit History Subject may be executed by an authorized delegate acting upon a power-of-attorney that has been executed in accordance with the Kazakhstani legislation on Notary;
3. The data provider and the credit report recipient that applied for the issuance of a credit report, or their employees will bear administrative liability in accordance with the administrative legislation of the Republic of Kazakhstan for the lack of consent of the subject of a credit history to submitting his/her information to the credit bureaus to form a credit history and/or issue a credit report, and as a consequence, for the issuance of an erroneous credit report.

**Article 26. The Basis and Intended Uses for Credit Information and Credit Reports**

1. The consent of the subject of a credit history will serve as the basis for data submission to the credit bureaus and for the issuance of credit reports.
2. Information that is in the Credit Bureau System may be used by the Credit Report Recipients for the following purposes:
  - 1) to evaluate the risks when granting, monitoring and extending loans;
  - 2) to evaluate the risks when changing the terms of credit agreements;
  - 3) to evaluate the risks related to any other transactions with deferred payments;
  - 4) to confirm the accuracy of information contained in a credit report;
3. The Credit Bureaus will have right to use any information received from Data Providers for market research and statistical research.

## CHAPTER 6. RELATIONS RESULTING FROM THE FORMATION AND THE USE OF CREDIT HISTORIES

### Article 27. **Agreements made with Data Providers and Credit Report Recipients**

1. So that their obligations with regard to the submission of Credit Information and the delivery of Credit Reports are fulfilled, the Data Providers listed in sub-paragraphs 1) and 2) of paragraph 1 of Article 18 of the present Law and the Credit Report Recipients listed in sub-paragraphs 1) and 2) of paragraph 1 of Article 20 of the present Law will be obliged to enter into agreements with all Credit Bureaus on the submission of Credit Information and/or delivery of credit reports.

2. An agreement on the provision of Credit Information and/or the procurement of Credit Reports must include the following terms and conditions:

1) the details of an individual entrepreneur or the full names of the parties, information on the places of their residence or locations, and their bank account details;

2) how long the agreement will be effective for, the basis upon which it may be unilaterally amended, terminated or dissolved, and the procedure for doing so, as well as the size of the fines for the violation of contractual obligations;

3) the mandatory requirement that consent is obtained from the Subject of a Credit History before his/her information may be submitted to the Credit Bureaus and/or before his/her Credit Report may be delivered to a Credit Report recipient;

4) the types of information that will form the Credit History, its volumes, how long it will be effective, and the procedure for providing it, as well as the terms of remuneration for services between the parties to the contract, as well as the terms and conditions of joint implementation of organizational and technical measures and requirements regarding protection of the credit history database and the informational systems used;

5) the Credit Bureau's commitment to use any information received only in accordance with the purposes stipulated in this Law;

6) the Credit Bureau's commitment to keep all information received confidential, and to disclose the information only on the grounds and terms, and in the manner stipulated in this Law;

7) the amount of information contained in the Credit Reports, and the procedure for receiving it;

8) the Credit Report Recipient's commitment not to disclose the information contained in a Credit Report ;

9) the responsibilities of the parties, including those of the Data Provider, should inaccurate information be sent to the Credit Bureaus.

## **Article 28. Registering as a Credit Report Recipient with the Credit Bureau**

In order to register with the Credit Bureau, the persons indicated in sub-paragraphs 1) and 2) of paragraph 1 of Article 20 of this Law must present the following documents:

- 1) an application for registration at the Credit Bureau;
- 2) notarized copies of any licenses that have been issued by the authorized body, and that grant the right to engage in an activity which requires a license (for organizations engaged in licensed activities);
- 3) a copy of their Certificate of State Registration as a legal entity (or as an individual entrepreneur);
  - 1) The full names and titles of the persons that are entitled to send inquiries to the Credit Bureaus. The said information will be certified by electronic digital signature of these persons if necessary.

## **Article 29. Credit Report Delivery**

1. The basis for providing a Credit Report will be as follows:

- 1) consent of the Subject of a Credit History to give out his/her Credit Report;
- 2) the Credit Report Recipient's adherence to the requirements of the present Law;
- 3) a request from the Credit Report Recipient, including confirmation that the Credit History

Subject has given his/her consent to the provision of his/her credit report.

2. The Credit Bureau will keep a record of requests for the issuance of Credit Reports and a record of all Credit Reports provided.
3. The Credit Report request must be made on behalf of a Recipient by the specifically authorized person that they have named as responsible for submitting requests to the Credit Bureau. The authorized person details will be held in the register of Credit Bureau Recipients.
4. The Credit Bureau will provide a Credit History Subject with his/her Credit Report on the basis that they receive his/her written request..
5. A Credit Report pertaining to the subject of the Credit History must include information on all previous Credit Report submissions on the credit history of this subject, showing the date it was issued and the recipients' names and details.
6. When providing a Credit Report, the Credit Bureau must show the names of all Data Providers and the date that the Credit Bureau received this information.

7. A Credit report will be provided on the basis, the terms, conditions and in the manner stipulated by the legislation of the Republic of Kazakhstan.

8. The Credit Bureau will be held liable for the distortion of any information received from the Data Providers that is stipulated by the legislation of the Republic of Kazakhstan on administrative offence.

#### **Article 30. Payment for the Provision of Credit Information and Credit Report Services**

Data Provider and Credit Bureau services will be provided on a payable basis [on commercial term], the fee and procedure for which will be determined in accordance with the agreement.

## CHAPTER 7. FINAL PROVISIONS

### Article 31. The specifics of dispute resolution

1. An application of the Subject of a credit history, submitted to a credit bureau or a data provider that is questioning information contained in a credit report must include the full name (first name, patronymic and last name), the place of residence and the details of the identification document of an individual. This application must also include the name and the details of location of a legal entity. This application must also specify information in question and contain a claim to be provided with accurate information. The application is signed by the applicant or his/her authorized delegate. The applicant may attach the copies of the documents he/she is referring to.
2. A data provider or a credit bureau will be obliged to consider an application and take one of the actions listed in paragraphs 3 and 4 of this Article, within fifteen working days from the date the application is received.
3. If the information received by a credit bureau is distorted as the result of operator errors of the data provider or the credit bureau, as well as the result of other actions or non-actions of their employees, then the data provider will submit an accurate information to the credit bureau, and the credit bureau will deliver a corrected credit report to the credit report recipient and reimburse to him/her all related expenses that have been incurred by him/her.
4. If the information in question is in consistency with the data of the Credit Bureau and the data of the data provider, the data provider and/or the credit bureau will send the applicant a written refusal to satisfy his/her request in the application and will specify the sources the questioned information was received from, within the timeframe that is set in [paragraph 2](#) of this Article.
5. In the event if the Applicant whose application has been refused makes an additional application, he/she will be responsible for the costs incurred by submission and consideration of the application, and delivery of a motivated answer.  
If there is disagreement on how the costs should be distributed, the disputes will be considered in accordance with judicial procedure.

### Article 32. Responsibility for violating the legislation of the Republic of Kazakhstan on Credit Bureaus and the Formation of Credit Histories

Persons who violate Kazakhstani legislation on Credit Bureaus and the formation of Credit Histories will be called to account in accordance with the laws of the Republic of Kazakhstan.

The President  
of the Republic of Kazakhstan

N. Nazarbaev

## **C. Ukraine**

Introduction: Law of Ukraine #2704-IV outlines how the formation and circulation of credit histories is to be organized for private credit information companies (CICs) based on a past with a public registry that had voluntary contribution of data and little support. The law states that both positive and negative information should be included in credit histories including total amount of obligation, amount repaid, other indebtedness, and information about the credit history information and registry of inquiries. Credit bureaus store information for 10 years since the credit transaction termination and the registry of inquiries will be kept for three years. The law states that the subject of a credit history is entitled to one free credit report per year or if a credit transaction is denied. Steps to address disagreement to information in credit histories are provided by the law as well as procedures to change credit histories.

The formation of private CICs is with capital from founders' funds and is not to be less than 5 million UAH and all CIC must contain the words "Credit Information Company" and that title can only be used for entities who are involved in keeping credit histories. The Ministry of Justice issues licenses based on paid capital and the company's statutes for collecting, storing, processing, and providing information. An authorized body will oversee CIC operations that include keeping the unified registry of a CIC, monitor compliance, supervise credit history information during company liquidation or reorganization and filing court actions as needed. Fines and other punishments are detailed.

The law also calls for the creation of professional associations (unions) of CICs that are voluntary in nature and serve to protect members. Amendments to laws as well as a timeline for implementation are also provided.

### **Law of Ukraine # 2704-IV On Organization of Formation and Circulation of Credit Histories**

The present Law shall establish legal and organizational fundamentals for formation and keeping of credit histories, the rights of subjects of credit histories and the users of credit information companies, the requirements to protection of information contained in a credit history, the procedure of creation, operation and liquidation of credit information companies.

#### **CHAPTER I. GENERAL PROVISIONS**

##### **Article 1. Objective of the Law**

The objective of the present Law shall be to regulate social relations arising in the area of collecting, processing, storage, protection and use of information on fulfillment by the persons of their monetary obligations, functioning of institutions engaged in exchange of information on monetary obligations and securing rights and interests of the subjects of credit histories.



## Article 2. **Legislation in the Area of Formation and Circulation of Credit Histories**

Relations in the area of formation and keeping of credit histories shall be regulated by the Constitution of Ukraine, the present Law, international treaties consent for obligatoriness thereof is given by the Verkhovna Rada of Ukraine as well as by the other regulatory acts issued to implement the laws.

## Article 3. **Definition of Terms**

The terms used in this Law shall have the following meanings:

*‘credit information company’* (hereinafter the Company) - a legal entity, whose exclusive activity is collecting, storage, use of information contained in a credit history;

*‘keeping credit history’* – activity of the Company on collection, processing, storage, protection, use of information contained in a credit history;

*‘credit history’* – the aggregate of information about a legal or a physical entity identifying it, information in respect of fulfillment by it of the obligations under credit transactions, other open information pursuant to the law;

*‘user of the credit information Company’* (hereinafter the User) - a legal entity or an individual, a subject of business, that concludes credit transactions and pursuant to the Agreement provides and is entitled to receive information contained in a credit history; *‘Agreement’* – a transaction, the parties thereto being the User and the Company and the subject matter thereof being regulation of issues on supply and obtaining of information contained in a credit history;

*‘Statute of the Company’* – rules on formation and keeping of credit histories approved by the executive body of the Company and agreed upon by the Authorized Body;

*‘credit report’* – the aggregate of information about a subject of credit history being the full or partial reflection of its credit history;

*‘credit transaction’* – transaction under which obligation of a physical or a legal entity is being arisen, changed or terminated in respect of the monetary funds’ payment to the User within a specific time in the future (including an insurance agreement);

*‘credit scoring’* – a specific form of a credit report digitally depicted;

*‘subject of credit history’* - any legal entity or an individual that concluded a credit transaction and in respect thereof a credit history is being formed;

*‘authorized body’* – an executive authority defined by the Cabinet of Ministers of Ukraine that performs state regulation of the Company operation.

#### Article 4. **Principles of Formation and Access to Information Contained in a Credit History**

Formation and access to information contained in a credit history shall be based on the following principles:

- guarantee of constitutional rights and freedoms of the subjects of credit histories;
- compliance of the scope of information with the objectives of its collection;
- significance, comprehensiveness, objectivity completeness and reliability of information;
- systematic and uninterrupted supply of information; targeted use of information; limited term of information storage; confidentiality of information and its protection;
- collection and supply of information contained in a credit history exclusively upon the consent of the subject of this credit history;
- independence of the Company.

## CHAPTER II. CREDIT HISTORIES

### Article 5. Sources of Credit History Formation

1. Sources of credit history formation shall be:
  - information supplied by the User to the Company upon written consent of the subject of credit history pursuant to this Law;
  - information from the State registries, other public databases, sources open for general use, except for the information containing state secrets.
2. The Company shall be entitled to obtain the information stipulated in part 1 hereof upon contractual basis.

The bodies or authorized entities (holders, administrators of state registries, etc.) shall be obliged to supply information from the state registries in the electronic form (in the database format) upon the Company's request, provided written consents of the subjects of information are in place.

Procedure for the information transfer from the state registries and the amount of payment therefor as well as the other conditions shall be established by the Cabinet of Ministers of Ukraine or by its order – by the Holder or Administrator of the respective registry and the Company based on the agreement.

### Article 6. Users of the Company

1. The Users of the Company may be banks, non-banking financial institutions and the other subjects of economic activity that provide services with deferring of payments or give property on credit.

### Article 7. Information Contained in Credit History

1. A credit history shall include the following information:
  - 1) Information identifying a person:
    - a) for an individual:
      - first name, last name and patronymic name;
      - date of birth;
      - passport data;
      - place of residence;
      - identification number per the State Registry of physical entities –taxpayers and other compulsory payments (if any) (hereinafter referred to as ID number);
      - information about current employment;
      - marital status and number of dependents;
      - state registration number and date, information about the state registration body and the major subject of economic activity of an individual - a subject of businesses;

- b) for legal entities:
  - full name;
  - place of location;
  - date and number of state registration, information about the state registration body;
  - identification code per the Unified State Registry of Enterprises and Organizations of Ukraine (hereinafter referred to as ID code);
  - first name, last name and patronymic name, passport data of the manager and chief accountant;
  - major type of economic activity;
  - identity information about the owners that hold 10 per cent and more of the authorized capital of a legal entity:
    - for physical entities, the owners – first name, last name and patronymic name, passport data, identification number and place of residence;
    - for legal entities, the owners – full name, location, date and number of state registration, information about the state registration body, identification code;
- 2) Information about monetary obligation of the subject of credit history:
  - a) information about credit transaction and changes thereto (number, date of conclusion, parties, type of transaction);
  - b) amount of obligation under the transaction concluded;
  - c) currency of obligation;
  - d) term and procedure of the credit transaction fulfillment;
  - e) information about the amount repaid and the final sum of obligation under the credit transaction;
  - f) date of an overdue obligation arising under the credit transaction, its amount and stage of repayment;
  - g) information about termination of the credit transaction and mode of termination (including upon the parties' consent, through court, warrant, etc.);
  - i) information about declaring the credit transaction invalid and grounds for such declaration;
- 3) Information about the subject of credit history that contains in the aggregate of documentary information about a person obtained from the state registries, other databases of public use, sources open for general use:
  - a) indebtedness on taxes and compulsory payments;
  - b) court decisions in respect of arising, fulfillment and termination of obligations under the concluded credit transaction;
  - c) court and executive body decisions in respect of property status of a subject of credit history;
  - d) other information that governs the capability of the subject of credit history to fulfill its own obligations;
- 4) Data about operations with the credit history information:
  - a) date of the credit history renewal;
  - b) name of the User that supplied information to credit history in case of its consent hereto;

- c) comments of the subject of credit history in cases stipulated by this Law.
2. Registry of inquiries shall contain the following information:
- a) date of inquiry to supply credit reports and information about supply of credit reports;
  - b) information about the User that submitted information to the credit history of the subject of credit history as well as information about the User or the Company that made an inquiry on supply of information contained in the credit history:
    - for individuals – subjects of business: first name, last name, patronymic name, identification number, place of residence and telephone number;
    - for legal entities – full name, ID code and information about an authorized person – the User’s or the Company’s representative who made an inquiry, its location and telephone number;
  - c) type of a credit report supplied.
3. Scope of information about the subject of credit history being supplied or received by the User shall be established taking into account the requirements stipulated by this Law.

#### **Article 8. Information Prohibited for Collection**

The Company shall be prohibited to collect and store information in credit histories about individuals related to:

- nationality, race or ethnic origin; political views;
- religious and philosophic beliefs;
- state of health;
- membership in parties and other public organizations.

#### **Article 9. Procedure for Information Collection and Formation of Credit History**

1. The User shall supply the information to the Company to form a credit history only in case of a written consent by a legal or physical entity that entered into a credit transaction with the User.
2. In case a credit transaction is concluded and a written consent from a subject of credit history is obtained to collect, store, use and disseminate information about it through the Company, the User shall supply the following information to the Company:
- 1) about itself to identify it as the User;
  - 2) about a subject of credit history established by paragraphs one and two, part one, Article 7 of this Law.
3. The User shall be entitled to refuse a credit transaction conclusion or to conclude such a transaction under conditions that take into account the risks due to conclusion of a credit transaction, in case a subject of credit history refuses to give consent to the access to its credit history and/or to the transfer of the information to the Company about a credit transaction with the User.
4. The User shall inform a subject of credit history about the name and address of the Company whom the information for the credit history formation will be supplied to.

5. The Company shall attract information stipulated by paragraph 3 part one Article 7 of this Law only for the purpose of a credit history formation.

6. The Company not later than 7 working days since receiving information from the User about the subject of credit history shall incorporate the respective information into its credit history.

#### **Article 10. Procedure of Storage and Withdrawal of Information Contained in a Credit History.**

1. The Company shall withdraw the following from the credit history:

- 1) the information stipulated by item 2, part one, Article 7 in case a credit transaction or an Agreement is absent or declared invalid;
- 2) all information contained in a credit history in case a subject of credit history did not give its written consent to collect, store, use and disseminate information about it through the Company;
- 3) the information stipulated by items 2-4, part one, Article 7 in case the term for the information keeping in the credit history has expired.

2. The Company shall be entitled under the User's participation to verify the information supplied by this User to form a credit history and to amend it on the conditions and per the procedure envisaged by this Law and the Agreement.

3. The Company shall store the information during ten years' period since the moment of a credit transaction termination.

#### **Article 11. Grounds and Procedure to Provide a Credit Report**

1. The Company shall provide information from the credit histories in the form of credit reports. A credit report shall contain all the information from the credit history, unless other scopes of information are stipulated by the Company's Statute or by the Agreement.

2. The User shall be entitled to address the Company to receive a credit report within the term of validity of a transaction concluded between it and the subject of a credit history and in case of a written consent by the subject of credit history to access to its credit history.

The User shall be entitled to address the Company to receive a credit report in case a subject of a credit history addresses it with the aim to enter into a credit transaction and gives the User a written consent to access to its credit history.

3. The Company shall provide information contained in a credit history exclusively to the Company Users on the grounds envisaged by this Law.

4. The Company shall provide a credit report to the User upon its request filed in a written or electronic form upon the conditions envisaged by this Law and the Agreement. While processing requests, the Company may verify availability of the credit histories of the subject of credit histories in other Companies

5. Credit reports shall be provided to the Users without the right to transfer them or to disclose information therein to the third persons.
6. Submission of credit reports to the User under conditions stipulated by this Law and the Agreement shall not be deemed violation of a banking or commercial secret.
7. The Company shall keep a registry of inquiries for credit histories pursuant to this Law.
8. Information in the registry of inquiries shall be kept within three years since the date of its supply.
9. Supply of credit reports by the Company or rendering any other services connected with keeping, processing and analyzing the information contained in a credit history shall be for fee, except for the cases stipulated by this Law.

#### **Article 12. Protection of Information Contained in a Credit History**

1. The Company shall ensure protection of information contained in a credit history pursuant to the legislation of Ukraine.
2. The Company shall not be entitled to entrust the third persons to implement the activity on keeping credit histories.
3. The Company and the User shall be liable under the legislation of Ukraine for distortion, illegal disclosure and non-targeted use of the information contained in a credit history.

#### **Article 13. Rights of the Subjects of Credit History**

1. A subject of credit history shall be entitled to familiarize itself with the information contained in its credit history, namely:
  - 1) a credit report;
  - 2) information from the registry of inquiries.
2. A subject of credit history shall be entitled to familiarize itself with the information stipulated by part one hereto by addressing the Company per the procedure established by the Company Statute.
3. A subject of credit history shall be entitled to familiarize itself for free with the information stipulated by part one hereto once within a calendar year and in case the User refuses to enter into a credit transaction.
4. The Company shall provide information to the subject of credit history stipulated in part one of this Article within two working days since the day of receiving a respective inquiry from it.

5. A subject of credit history shall be entitled to address the Company with a written application claiming its disagreement to the information contained in its own credit history, except for the information about credit scoring. The application shall contain a 100-word comment regarding the contested information.
6. In case of receiving the application from the subject of credit history, the Company shall be obliged for the term of the information verification to mark respectively a credit history of such a subject of credit history and within five working days since this application receiving to address the User that submitted the contested information to prove or change it.
7. In case the User confirms the contested information, the Company shall leave the credit history unchanged and shall remove the mark from the credit history. In this case a subject of credit history shall be entitled to submit a 100-word comment regarding the contested information to the Company and the Company shall incorporate this comment to its credit history.
8. In case the User changes the contested information, the Company shall amend the information contained in a credit history of the subject of credit history and shall remove a mark from the credit history.
9. In case the User did not reply within a 15-days' term since the Company addressed it, the Company shall withdraw the contested information and shall remove a respective mark from the credit history.
10. The Company shall be entitled to notify a subject of credit history, the User whose information was contested by this subject and everybody who addressed the credit history of this subject within a year about change of contested or withdrawn information pursuant to paragraphs 1 and 2, part one, Article 10 by way of sending a copy of its renewed credit history not later than two days since such amendments were incorporated into a credit history of this subject.
11. A subject of credit history shall be entitled to appeal at court against the Company or the User actions that violate its rights.

#### **Article 14. Credit Information Company**

1. The Company shall be created in the form of an economic (business) company pursuant to the legislation, taking into account specifics envisaged by this Law.
2. Legal and physical entities may be the Company founders. Legal entities, the Company founders, shall operate not less than three years since the registration date and shall have no debts in tax and other compulsory payments within the last three years.
3. The Company's authorized capital shall be formed exclusively at the expense of the founders' monetary funds and shall constitute not less than 5 million UAH.



4. The name of the Company shall obligatory contain the words ‘Credit Information Company’.
5. The words ‘Credit Information Company’ and their derivatives shall be allowed for use in the title name of only those legal entities whose exclusive operation is keeping the credit histories.

#### **Article 15. Operation of the Company**

1. Subject matter of the Company operation shall be exclusively keeping the credit histories and performing other activities with the purpose of implementing provisions of this Law.
2. The Company shall commence its operation from the moment of receiving a license.
3. The Ministry of Justice of Ukraine shall issue a license based on the Company’s application and the documents proving availability of the following:
  - 1) paid authorized capital in the amount envisaged by this Law;
  - 2) Statute of the Company to contain the following rules on:
    - a) collection, processing and transfer of information;
    - b) supply of credit reports;
    - c) storing and protection of information;
    - d) keeping a registry of inquiries for credit histories.
4. The Statute of the Company, except for the section on the information storage and protection, shall be subject to official publication within a month since a license obtaining.
5. In case of the Company liquidation:
  - 1) the information specified in paragraphs 1 and 2, part one of Article 7 of this Law shall be subject to returning to the User that supplied it;
  - 2) the information specified in paragraph 3, part one of Article 7 of this Law may be transferred or sold to another Company;
  - 3) the information specified in paragraph 4, part one of Article 7 of this Law and information that remained non-placed shall be subject to destruction.

#### **Article 16. State Regulation of the Company Operation**

1. The Authorized Body shall perform state regulation of the Company operation in compliance with this Law.
2. The Authorized Body shall:
  - 1) approve its own regulatory acts and recommendations on the Company operation pursuant to the requirements of this Law;
  - 2) perform the functions of a licensing body established by the legislation of Ukraine on licensing of specific types of economic activity;
  - 3) keep the unified registry of the Company and notify the Company about all changes in the registry;
  - 4) control compliance of the Company operation with the requirements of this Law, regulatory acts of the Authorized Body and Statute of the Company;

- 5) supervise over the targeted use of information contained in a credit history during the Company reorganization or liquidation;
  - 6) send to the Company a written notice requiring to terminate a violation and take necessary steps to its elimination;
  - 7) bring a court action claiming to apply financial sanctions;
  - 8) perform other authorities stipulated by the legislation of Ukraine.
3. The Company can be subject to the following financial sanctions:
- 1) for operations on credit history keeping without a license, receiving thereof is stipulated by this Law, - a fine in the amount of up to 5,000 non-taxable minimal income of citizens;
  - 2) for the Company violation of Ukrainian legislation and regulatory acts of the Authorized Body – a fine in the amount of up to 1,000 non-taxable minimal income of citizens;
  - 3) for evasion or non-timely fulfillment of a written notice of the Authorized body – a fine in the amount of up to 500 non-taxable minimal income of citizens;
  - 4) for systematic violations of the rights of the subjects of credit histories – termination of the Company license and initiation of its liquidation.

#### **Article 17. Professional Associations of Credit Information Company**

1. Professional associations of the Company shall be founded in the form of associations (unions) upon the principles of voluntariness and shall operate aimed at protection and representation of interests of their members, development of interregional and international contacts, ensuring scientific and informational exchange and professional interests, drafting recommendations on credit bureau operation.
2. Professional associations of the Company shall be entitled to approve the rules for the association members on credit bureau professional operation.
3. Professional associations of the Company may undertake business exclusively for the purpose and pursuant to the objectives they were created.
4. Upon the decision of the Authorized body the professional association of the Company may acquire the status of a self-regulated organization entitled in respect of its members to:
  - provide methodological support to the Company operation;
  - carry out training and upgrading of the Company experts;
  - develop and implement rules of professional behavior for the Company experts;
  - perform other functions pursuant to the status of a self-regulated organization.

### CHAPTER III. FINAL PROVISIONS

1. This Law shall enter into force six months after the date of its publication.
2. Legal entities that implemented activity envisaged by Article 15 of this Law prior to this Law coming into effect shall bring their operation in compliance with this Law requirements or shall terminate operation within a year after this Law becomes effective.
3. The following laws of Ukraine shall be amended:
  - 1) Article 9 of the Law of Ukraine “On Licensing of Specific Types of Economic Activity” (the VRU Bulletin 2000, №36, p. 299, № 45, p. 377; 2001, № 11, p. 45, № 16, p. 76, № 22, p. 105; 2002, № 6, p. 39, № 7, p. 50, № 17, p. 121, № 20, p. 134, № 30, p. 207, № 31, p. 214; 2003, № 13, p. 9, № 23, p. 145, № 36, p. 276; 2004, № 12, p. 155, № 13, p. 180, № 15, p. 228, № 38, p. 468, № 50, p. 537; 2005, № 4, p. 106, № 5, p. 114, № 6, p. 138, № 9, p. 183, №№ 17–19, p. 267) shall be supplemented with paragraph 74 which reads as follows:

“74) operation connected with collection, processing, storage, protection, use of information contained in the credit history”;
  - 2) In Article 20 of the Law of Ukraine “On State Registration of Legal Entities and Individuals – Entrepreneurs” (the VRU Bulletin, 2003, #31-32, pg. 263):
    - a) add paragraph 4 to part 2 reading as follows:

“of the database (the aggregate of any information contained in the Unified State Registry in the electronic form) for the purposes of the Credit Information Company “.
    - b) add the second sentence to part 5 reading as follows:

“Procedure for the transfer to the Company of information from the Unified State Registry in the database format, as well as the relevant fee therefor and the other conditions shall be established by the special Authorized Body for state registration and the Credit Information Company on a contractual basis”;
    - c) add the words “except for the Company data transfer” to part 9;
  - 3) part four, Article 3 of the Law of Ukraine “On Credit Unions” (the VRU Bulletin 2002, N15, pg.101) shall be supplemented with the second sentence: “A Credit Union may be the founder (participant) of a legal entity that performs collection, processing, storage, protection and use of information about a legal or physical entity on performing a credit transaction by it”;
  - 4) In the Law “On State Registration of Property Rights in Immovable Property and their Restrictions” (the VRU Bulletin 2004, N1, pg.553, 2005, N10, pg.194):
    - a) add paragraph 4 to part one of Article 28 which reads as follows:

“a credit information company on their request re the information of the State registry of Rights stipulated by part one of this Article in the electronic form (a database format), in case of a written consent by legal and physical entities – owners of immovable property”;

b) add part five to Article 29 which reads as follows:

“5. Procedure for the transfer to the Company of information from the Unified State Registry in the electronic form (a database format) as well as the relevant fee therefore and the other conditions shall be established by the Cabinet of Ministers of Ukraine or by its order by the Holder or Administrator of the State Registry of Rights and the Credit Information Company on a contractual basis”;

5) In the Law of Ukraine “On Securing the Creditors’ Claims and Registration of Encumbrances” (the VRU Bulletin 2004, N11, pg.140):

a) add the following sentence to part one of Article 45: “The State Registry Holder shall be obliged upon the request of the Credit Information Company to provide excerpts from the State Registry in the electronic form (a database format) in case of a written consent by the legal and physical entities – owners of movable property”;

6) Add part three to Article 46 which reads as follows:

“Procedure for the transfer to the Company of information from the State Registry in the electronic form (a database format) as well as the relevant fee therefor and the other conditions shall be established by the Cabinet of Ministers of Ukraine or by its order by the Holder of the State Registry and the Credit Information Company on a contractual basis”;

4. The Cabinet of Ministers of Ukraine shall, within three months after this Law publication, establish the Authorized Body and create conditions for its operation.

5. The Cabinet of Ministers of Ukraine and the National Bank of Ukraine shall, within six months after this Law comes into effect, bring their regulatory acts in compliance with this Law.

6. The Authorized Body shall within a three months’ term after its establishment by the Cabinet of Ministers, develop regulatory acts pursuant to this Law.

Victor YUSHCHENKO,  
President of Ukraine  
June 23, 2005